

Law Offices of

CHAPMAN AND CUTLER

a partnership including professional corporations

111 West Monroe Street, Chicago, Illinois 60603

TWX 910-221-2103 Telex 206281

FAX (312) 701-2361

Telephone (312) 845-3000

Theodore S. Chapman
1877-1943
Henry E. Cutler
1879-1959

15245-A
NOV 15 1988 9 10 AM

INTERSTATE COMMERCE COMMISSION
100 Peachtree Street, N.W.
Atlanta, Georgia 30303
(404) 420-1420

8-320A017

No. NOV 15 1988

Date

Fee \$ 13.00
100 South Main Street
Salt Lake City, Utah 84144
(801) 533-0066

Honorable Noretta R. McGee, Secretary
Interstate Commerce Commission
Washington, D.C. 20423

ICC Washington, D. C.

Dear Ms. McGee:

Enclosed for recordation under the provisions of 49 USC 11303(a) are the original and one copy of an Assignment and Assumption Agreement dated as of October 1, 1988 and an attached copy of an Acknowledgement and Consent dated as of October 3, 1988 relating thereto. The Assignment and Assumption Agreement and related Acknowledgement and Consent provided for the assignment of the interest of the lessor under various leases, one of which is the Lease Agreement for Railroad Freight Cars dated as of April 8, 1987, which was filed with your office at 2:50 PM on June 11, 1987 and given Recordation No. 15245. Said Assignment and Assumption Agreement and related Acknowledgement and Consent together constitute a secondary document.

A general description of the railroad equipment covered by the enclosed document and said Lease Agreement assigned thereby is set forth in Annex I attached to this letter and made a part hereof.

The names and addresses of the parties are:

Assignor: Railmark, Inc.
4300 Duhme Road
Suite A
Madeira Beach, Florida 33708

Assignee: Citicorp Leasing, Inc.
601 Midland Avenue
Rye, New York 10580

The undersigned acted as special counsel in connection with the preparation of the enclosed document and has knowledge of the matters set forth therein.

Please return the copy of the enclosed document to Larry Elkins, Esq., Chapman and Cutler, 111 West Monroe Street, Chicago, Illinois 60603.

This is
Rec. No
15245-A

NOV 15 1988
MOTOR CARRIER UNIT

Please index
under this name

Chapman and Cutler

CHAPMAN AND CUTLER

Also enclosed is a check in the amount of \$13.00 covering the required recording fee.


A short summary of the enclosed secondary document to appear in the Index follows:

Assignment and Assumption Agreement between Railmark, Inc., as assignor, 4300 Duhme Road, Madeira Beach, Florida 33708 and Citicorp Leasing, Inc., as assignee, 601 Midland Avenue, Rye, New York 10580 and related Acknowledgement and Consent of CSX Transportation, Inc., as lessee, Treasury-Equipment Group, 100 North Charles Street, S/C 223, Baltimore, Maryland 21201 covering 69 open-top hopper cars.

Very truly yours,

CHAPMAN AND CUTLER

By


Larry Elkins, P.C.

LE/lck
Enclosure

LEASES ASSIGNED AND ASSUMED
AND
RAILROAD FREIGHT CARS LEASED THEREUNDER

<u>LEASES</u>	<u>ICC RECORDATION INFORMATION FOR LEASE OR LEASE MEMORANDUM</u>	<u>RAIL CARS UNDER LEASE</u>
Lease Agreement for Railroad Freight Cars dated as of May 29, 1987 between Railmark, Inc. and CSX Transportation, Inc. ("CSX")	No. 15251 June 26, 1987 3:50 p.m.	69 100-Ton Open Top Hopper Cars SOCX 358000- 358068, both inclusive
Lease Agreement for Railroad Freight Cars dated as of April 8, 1987 between CSX and Railmark, Inc.	No. 15245 June 11, 1987 2:50 p.m.	43 100-Ton Open Top Hopper Cars, marked and numbered as shown on Exhibit A hereto
Lease Agreement for Railroad Freight Cars dated as of April 13, 1987 between TCCX Corporation ("TCCX") and CSX and related Assignment of Lease Agreement dated as of April 28, 1988 between TCCX and Railmark, Inc.	No. 15739 July 25, 1988 11:00 a.m.	25 100-Ton Open Top Hopper Cars TCCX 1-25, both inclusive 14 100-Ton Open Top Hopper Cars TCCX 346-359, both inclusive
First Amendment dated May 1, 1988 providing revised car marks and numbers	No. 15739 July 25, 1988 11:30 a.m.	CSXT 291050- 291074, both inclusive CSXT 291075- 291088, both inclusive

EXHIBIT A

A.) Twelve (12) - used, 100 ton, 3420 c.f., three pocket open hopper cars built during May, 1980 by GSC

Former #	New #	Former #	New #
LEFC 4136	C&O 14136	LEFC 4156	C&O 14156
4141	14141	4163	14163
4143	14143	4166	14166
4149	14149	4174	14174
4151	14151	4177	14177
4152	14152	4179	14179

B.) Thirty-one (31) - used, 100 ton cars identical to item A above excepting built 1976 and 1978 as indicated below

Former #	Bltd.	New #	Former #	Bltd.	New #
BAP 4201	(08/76)	C&O 14201	BAP 4251	(11/76)	C&O 14251
4205	(07/76)	14205	4255	(11/76)	14255
4211	(10/76)	14211	4257	(11/76)	14257
4215	(10/76)	14215	4259	(11/76)	14259
4217	(10/76)	14217	4261	(11/76)	14261
4219	(10/76)	14219	4263	(11/76)	14263
4221	(10/76)	14221	4265	(11/76)	14265
4223	(11/76)	14223	4267	(11/76)	14267
4227	(11/76)	14227	4269	(11/76)	14269
4231	(11/76)	14231	4271	(12/76)	14271
4233	(11/76)	14233	4275	(12/76)	14275
4235	(11/76)	14235	4281	(12/76)	14281
4237	(11/76)	14237	4283	(12/76)	14283
4241	(11/76)	14241	4287	(07/78)	14287
4243	(11/76)	14243	4289	(07/78)	14289
4249	(11/76)	14249			

15245-A
NOV 15 1988 - 9 10 AM
INTERSTATE COMMERCE COMMISSION

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT is entered into as of October 1, 1988, by and between RAILMARK, INC., a Florida corporation ("Seller"), and CITICORP LEASING, INC., a Delaware corporation ("Purchaser").

W I T N E S S E T H:

WHEREAS, Seller and Purchaser are parties to an Asset Purchase Agreement dated as of October 1, 1988 (the "Purchase Agreement"), pursuant to which Seller has agreed to sell, and Purchaser has agreed to purchase, certain assets of Seller as described therein; and

WHEREAS, the Purchase Agreement provides, among other things, for the execution and delivery of an assignment and assumption to effect the sale by Seller to Purchaser of all of Seller's right, title and interest in, and the assumption by Purchaser of the obligations of Seller under, the Leases which are more fully identified in Annex 1 hereto and which provide for the lease of the cars identified in Annex 1 as leased under the respective Leases.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged and confessed, the parties hereto hereby agree as follows:

1. Definitions. Unless the context otherwise implies, or unless otherwise defined herein, capitalized terms used herein shall have the meanings given to them in the Purchase Agreement.

2. Assignment. Seller hereby assigns, transfers, sells and conveys unto Purchaser all of Seller's right, title and interest in and to the Leases, excluding, however, any claim, cause of action or other right to payment accruing prior to the Closing Date or payable by reason of an event, action or omission occurring prior to the Closing Date. Seller hereby represents and warrants that Seller has good and marketable title to the Leases free and clear of all liens, charges, encumbrances, rights, claims and restrictions on transfer.

3. Assumption. Purchaser hereby assumes all of the duties and obligations of Seller under the Leases accruing or arising from and after the Closing Date. Seller shall not be

responsible to any party to the Leases or any other person for the discharge or performance of any duties or obligations to be performed or discharged by Seller pursuant to or in connection with the Leases after the Closing Date except as otherwise specified in the Purchase Agreement. Purchaser agrees to be deemed to be a party to the Leases and agrees to be bound by all of the terms of the Leases.

4. Indemnification. Purchaser agrees to indemnify and hold Seller harmless from and against any loss, liability, claim, damage or expense (including, but not limited to, and unless Purchaser assumes the defense, the reasonable cost of investigating and defending against any claims for damages) arising out of or in connection with the failure of Purchaser to fulfill any of the duties and obligations which it assumes pursuant to paragraph 2 hereof, excepting, however, any such loss, liability, claim, damage or expense which is attributable to the willful misconduct or gross negligence of Seller, or its employees.

5. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

6. Further Assurances. Seller agrees to execute such further documents, and to do such further things, as Purchaser may reasonably request in order to more fully effect this Assignment and Assumption Agreement and the transaction contemplated by the Purchase Agreement.

7. Amendments. Upon acceptance of this Assignment and Assumption Agreement by the lessees under the Leases, the Leases shall be amended (without the necessity of further action, but with the agreement of such parties to execute and deliver such amendments to the Leases as Purchaser shall reasonably request) so that Purchaser shall be deemed the "lessor" for all purposes under the Leases in accordance with the terms thereof and hereof.

RAILMARK, INC.

By W. E. Krause
Its W. E. Krause

CITICORP LEASING, INC.

By _____
Its _____

IN WITNESS WHEREOF, the parties hereto have each caused this Assignment and Assumption Agreement to be duly executed as of the day and year first above written.

RAILMARK, INC.

By _____
Its _____

CITICORP LEASING, INC.

By *Norman F. Herlihy*
Its VICE PRESIDENT

STATE OF Florida SS

CITY OF St Petersburg SS

On this 14 day of October, 1988, before me personally appeared Robert T. Brown, to me personally known, who being by me duly sworn, says that he is the Executive Vice President of RAILMARK, INC., that the foregoing instrument was signed on behalf of said corporation, and he acknowledged that the execution of said instrument was his free act and deed.

Karen E. King
NOTARY PUBLIC

My commission expires:

NOTARY PUBLIC, STATE OF FLORIDA.
MY COMMISSION EXPIRES: SEPT. 26, 1992.
BONDED THRU NOTARY PUBLIC UNDERWRITERS.

STATE OF _____ SS

COUNTY OF _____ SS

On this _____ day of _____, 19____, before me personally appeared _____, to me personally known, who being by me duly sworn, says that he is the _____ of CITICORP LEASING, INC., that the foregoing instrument was signed on behalf of said corporation, and he acknowledged that the execution of said instrument was his free act and deed.

NOTARY PUBLIC

My commission expires:

STATE OF SS
CITY OF SS

On this _____ day of _____, 19____, before me personally appeared _____, to me personally known, who being by me duly sworn, says that he is the _____ of RAILMARK, INC., that the foregoing instrument was signed on behalf of said corporation, and he acknowledged that the execution of said instrument was his free act and deed.

NOTARY PUBLIC

My commission expires:

STATE OF NEW YORK SS
COUNTY OF WESTCHESTER SS

On this 13 day of OCTOBER, 1988, before me personally appeared THOMAS F. HERLIHY, to me personally known, who being by me duly sworn, says that he is the VICE PRESIDENT of CITICORP LEASING, INC., that the foregoing instrument was signed on behalf of said corporation, and he acknowledged that the execution of said instrument was his free act and deed.

Robert R. Goldberg
NOTARY PUBLIC

My commission expires: 11/30/89

ROBERT R. GOLDBERG
Notary Public, State of New York
No. 4690571
Qualified in Westchester County
Commission Expires November 30, 1989

LEASES ASSIGNED AND ASSUMED
AND
RAILROAD FREIGHT CARS LEASED THEREUNDER

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4241	(11/76)	14241	4287	(07/78)	14287
4243	(11/76)	14243	4289	(07/78)	14289
4249	(11/76)	14249			

ACKNOWLEDGEMENT AND CONSENT

The undersigned, CSX Transportation, Inc., a Virginia Corporation (the "Lessee"). (1) consents to the assignment by Railmark, Inc., a Florida Corporation (the "Seller"), of all of the Seller's right, title and interest in and to the following described leases (hereinafter referred to collectively as the "Leases" and individually as the "Lease"):

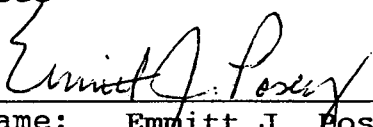
- (a) that certain Lease Agreement for Railroad Freight Cars dated as of May 29, 1987, by and between Seller, and Lessee, as agent for the Chesapeake and Ohio Railway Company;
- (b) that certain Lease Agreement for Railroad Freight Cars dated as of April 8, 1987, by and between Seller, and Lessee; and
- (c) that certain Lease Agreement for Railroad Freight Cars dated as of April 13, 1987, by and between TCCX Corporation, a Texas Corporation, and Lessee, as amended by that certain 1st Amendment to Lease Agreement for Railroad Freight Cars dated as of May 1, 1988, between Seller as successor in interest to TCCX Corporation, and Lessee,

(2) consents to the assumption by Citicorp Leasing, Inc. ("Buyer"), of all of the duties and obligations of Seller under the Leases accruing or arising from and after the effective date of such assumption and acknowledges that Seller remains liable for all of its duties and obligations under the Leases accruing or arising prior to the effective date of such assumption, (3) agrees to recognize Buyer as successor to all right, title and interest of Seller pursuant to the Leases and agrees that Buyer shall be deemed the "Lessor" for all purposes under the Leases and each reference in the Leases to or encompassing the "Lessor" shall thereafter be deemed to refer to Buyer, and (4) agrees that the address for notices to Buyer and payment of rent pursuant to the Leases shall be as follows: Citicorp North America, Inc., 601 Midland Avenue, Rye, New York 10580, Attention: Aircraft/Special Projects Finance, or such other address as may be furnished by Buyer in writing to the Lessee.

THIS ACKNOWLEDGEMENT AND CONSENT is executed as
of the 3rd day of October, 1988.

CSX TRANSPORTATION, INC., as
Lessee

By


Name: Emmitt J. Posey

Title: Vice President-Car Management

Address: CSXT Equipment Group
100 N. Charles St.
Baltimore, MD 21201